

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

UNITED STATES OF AMERICA

v.

Criminal No. 2:09-00137

JOSEPH CLEVELAND FERRELL

DEFENDANT'S MOTION TO CONTINUE

Defendant Joseph Cleveland Ferrell, by counsel, respectfully moves the Court for a two-week continuance of the sentencing hearing scheduled for May 17, 2011, to allow Mr. Ferrell to submit a full response to the recently submitted revised financial report and to a request for more information received from the probation office this morning.

After the close of business on Friday, May 13, 2011, Mr. Ferrell's counsel received the revised financial statement submitted to the Court. The revised financial statement is 15 pages long and separates out Mr. Ferrell's net worth, Ms. Ferrell's net worth, and the financial condition of each of their respective businesses. While most of the information contained in the revised report appears to be accurate, several substantial loans that Mr. Ferrell is obligated to repay were excluded from the personal net worth analyses. (*See* Presentence Report Supplement, p. 8, Note E). It is not clear whether these liabilities were included in the financial analyses of the individual businesses.

Then, before 8:30 this morning, counsel received an additional request for information, relating generally to fair market values for properties included in earlier versions of the Presentence Report and the latest Supplement.

Due to other commitments on the morning of May 16, Mr. Ferrell's counsel will not have sufficient time before the sentencing date to ascertain which loans were omitted

from Mr. and Ms. Ferrell's net worth analyses, whether these loans were entirely omitted from the revised financial report, or how the report should be changed to reflect Mr. Ferrell's financial condition more accurately. Nor does it appear that counsel can respond fully and accurately to the request for additional fair market value information before tomorrow morning's hearing.

For these reasons, Mr. Ferrell respectfully requests that the Court continue the sentencing hearing for two weeks to provide sufficient time to respond fully to the revised financial statement. Counsel will, of course, endeavor to respond more quickly if that proves to be feasible.

Respectfully submitted,

Joseph Cleveland Ferrell

By Counsel,

/s/ Benjamin L. Bailey

Benjamin L. Bailey (WV Bar ID # 200)

Rodney A. Smith (WV Bar ID #9750)

Bailey & Glasser, LLP

209 Capitol Street

Charleston, West Virginia 25301

(304) 345-6555

(304) 342-1110 *facsimile*

Counsel for Joseph Cleveland Ferrell

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:09-00137

JOSEPH CLEVELAND FERRELL

CERTIFICATE OF SERVICE

The undersigned hereby certifies the “**DEFENDANT’S MOTION TO CONTINUE**” was served upon counsel of record, via the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following counsel of record on this 16th day of May, 2011:

Hunter P. Smith, Jr., Esq.
Assistant U. S. Attorney
4000 United States Courthouse
300 Virginia Street, East
Charleston, West Virginia 25301

/s/ Benjamin L. Bailey
Benjamin L. Bailey (WV Bar ID # 200)